

1 Glendale Broadcasting Company?

2 MR. MAY: Objection, Your Honor, no predicate.

3 COURT REPORTER: Excuse me, Your Honor, the mikes
4 caught --

5 MR. CORBERT: I'd also -- I -- I'd --, Your Honor.
6 It partially assumes a, a fact not in evidence as if there is
7 an arrangement to lease space to Glendale Broadcasting
8 Company.

9 MR. COHEN: Let me strike the question, Your Honor.

10 JUDGE CHACHKIN: All right.

11 BY MR. COHEN:

12 Q Is -- does, does, does Shamrock today have terms in
13 which it -- that it is willing to offer to Glendale
14 Broadcasting Company to lease space on the WFOX tower?

15 A In the absence of technical data involving the
16 specifics of the installation that they wish to put on the
17 tower, no, sir, they do not.

18 Q And certainly your testimony is not an offer to
19 lease space at the present time to Glendale Broadcasting
20 Company, is it?

21 A In the absence of that and the information I
22 previously stated, no, it is not.

23 Q Has any representative of Shamrock contacted any
24 representative of Glendale to offer to lease space on its
25 tower?

1 A Not to my knowledge, no, sir.

2 MR. COHEN: Could I have 1 minute, Your Honor?

3 JUDGE CHACHKIN: Yes, sir.

4 MR. COHEN: I have no further questions of the
5 witness.

6 JUDGE CHACHKIN: Counsel has indicated that he has
7 no further questions of the witness. Does the Bureau have any
8 questions?

9 MR. ZAUNER: No, Your Honor.

10 JUDGE CHACHKIN: Do you have any questions?

11 MR. MAY: No questions for redirect, Your Honor.

12 JUDGE CHACHKIN: Well, I have some questions.

13 EXAMINATION

14 BY JUDGE CHACHKIN:

15 Q Your testimony states in paragraph 4 that the tower
16 was constructed -- when the tower was constructed was
17 specifically designed to accommodate a high power television
18 antenna. Does that mean by that statement at the time the
19 tower was constructed that the, the owners of the tower had in
20 mind a specific television -- a need of a specific television
21 antenna?

22 A In order to design a tower for specific wind
23 loading, a specific make and model of television antenna had
24 to be specified and -- so, we specified a specific make and
25 model of RCA antenna or obtaining wind loading numbers. The

1 tower was specifically and purposely over designed to
2 accommodate three FM transmitting antennas to one high power,
3 one low power UHF transmitting antenna and a myriad of other
4 facilities for the purposes of facilitating leasing space on
5 the tower.

6 Q But was there -- did you have at that time some
7 leasing proposal for the use of a television antenna?

8 A No, sir.

9 Q But nevertheless the, the tower was designed -- over
10 designed, as you say, so would accommodate a high power
11 television antenna?

12 A Yes, sir. We were aware of two UHF television
13 allocations in the immediate area that could probably utilize
14 the tower.

15 Q What was that?

16 A One was Channel 34 in Athens, Georgia. I'm not sure
17 where the other one was. It could -- I don't know whether 63
18 existed at that time but our primary concern was Channel 34 in
19 Athens, Georgia.

20 Q Well, what happened with Channel 34?

21 A They decided --

22 Q They didn't -- they decided not to use your antenna?

23 A That's correct.

24 Q Why? Do you know why?

25 A I know what I was told, sir.

1 Q Pardon me?

2 A I know what I was told --

3 Q What were you told?

4 A -- by one of the owners. They decided to move the
5 station further north away from the metropolitan Atlanta area
6 because they were afraid that the proximity of our tower to
7 Atlanta would have adverse effects on the rates that they
8 would be charged for the programming.

9 Q And you say there was another one, television --
10 potential television station that you had in mind but you
11 can't think of it?

12 A I believe -- I'm not real sure. There may have been
13 an allocation in Atlanta or somewhere in the general area
14 that, that was still open at that time. Now, the low power
15 television antenna that was in the original design was just
16 something to throw in because those, those allocations I'm not
17 sure really existed at that time. We just assumed that, that
18 there will be some action in that area which there never was.

19 Q Mr. Cohen asked you about what would be the lease
20 cost for locating the, the Glenville antenna on WFOX tower?

21 A Yes, sir.

22 Q And if I recall your response it was you couldn't
23 give a figure at this time.

24 A Uh-huh.

25 Q And the reason you couldn't was you didn't know the

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1 dimensions of the antenna, is that what you're saying?

2 A No, sir. The price that we charge for the tower is
3 based on available inventory, both vertical space and wind
4 loading and --

5 Q Now, -- go ahead.

6 A -- you'd have to have very specific technical data
7 about the, the antenna and either transmission line, wave
8 guides or whatever they want to use to feed the antenna with
9 in order to determine the wind loading effects upon the tower
10 and how much, how much available inventory we would have after
11 their facility was installed.

12 Q So, what you're saying, in effect, you don't know
13 whether or not you could, in fact, -- whether, in fact,
14 Glendale could establish -- use the antenna -- establish an
15 antenna on the tower? You don't know for a fact whether wind
16 loading would permit it or space would -- inventory space
17 would permit it at the present time? Isn't that what you're
18 saying?

19 A I'm saying that if the antenna and transmission line
20 combination that they specify were less wind loading than the
21 original design of the tower, then, yes, I do know; however,
22 if it were a greater amount, I do not.

23 Q So, you can't say whether or not -- so, you can't
24 say whether the tower is available for the use by Glendale at
25 the present time? It would depend on, as you point out,

1 whether it was less or more wind loading and other space
2 requirements?

3 A That's correct, sir.

4 Q And apparently prior to giving your statement you
5 didn't make any analysis of Glendale's application to make a
6 determination whether or not the tower would -- your tower
7 would accommodate Glendale or not?

8 A No, sir.

9 Q So, all you know is that there is a tower there
10 which is designed to accommodate a high power antenna but you
11 can't say whether the tower could accommodate any particular
12 antenna?

13 A That's correct, sir.

14 JUDGE CHACHKIN: Any further questions of this
15 witness? You're excused. Thank you very much.

16 MR. MAY: Thank you, Mr. Mullinax.

17 MR. MULLINAX: What about these exhibits?

18 MR. MAY: You just leave those there.

19 MR. CORBERT: Your Honor, I'll be leaving with the
20 witness now.

21 JUDGE CHACHKIN: Yes, you -- I assume you didn't
22 have any clarifying questions?

23 MR. CORBERT: Your assumption was correct. I was
24 tempted to use the little known rule there but -- which gave
25 me the right to confer in confidence with him but I figured it

1 would only prolong the proceedings.

2 JUDGE CHACHKIN: All right, Mr. Corbert, you're
3 excused. All right. I assume we have no further witnesses
4 and all we have remaining is whether or not we're going to
5 have Mr. Mullaney testifying or whether or not we're going to
6 work on a stipulation so that we don't need him as a witness.
7 Is that where we stand right now?

8 MR. MAY: Yes, sir.

9 JUDGE CHACHKIN: All right. Let's go off the record
10 then and establish a date for findings and conclusions.

11 (Off the record.)

12 (On the record.)

13 JUDGE CHACHKIN: Back on the record. Recognizing
14 the fact that the parties are engaged in preparing findings in
15 the Florida proceeding and recognizing the amount of hearing
16 dates and record evidence in the taking of that case and also
17 the fact that the Monroe case is dependent on the rulings in
18 the Florida case on issues against both parties, I'm prepared
19 to just put off the filing of the post findings in, in this
20 case, the Monroe case, until after the findings that requires
21 to be filed in the Florida case. In light of that fact, the
22 dates will be October 7, 1994 for filing the proposed findings
23 of fact and October 21st, the date for filing replies. And I
24 want to emphasize that I think I've given the parties more
25 than sufficient time to prepare the findings in both cases.

1 And I expect the parties to meet those dates and I will look
2 with disfavor upon any requests via extraordinary
3 circumstances -- I will look with disfavor upon any requests
4 to extend those dates. In addition, I will not close the
5 record at this time pending the filing of a possible
6 stipulation or for failing a stipulation, the testimony of Mr.
7 Mullaney. And as I understand, that question will be resolved
8 in the next few days. So, we're, we're now in recess at this
9 time.

10 MR. MAY: Thank you, Your Honor.

11 MR. COHEN: Thank you, Your Honor.

12 (Whereupon, the hearing was adjourned at 10:35
13 a.m.).

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Name

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Docket No.

WASHINGTON, D.C.

Place

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Date

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